

**NO. 23-10994**

**UNITED STATES COURT OF APPEALS  
FOR THE FIFTH CIRCUIT**

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SPECTRUM WT; BARRETT BRIGHT; LAUREN STOVALL,

*Plaintiffs-Appellants,*

v.

WALTER WENDLER, *et al.*,

*Defendants-Appellees.*

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**APPELLANTS' UNOPPOSED MOTION TO  
SUPPLEMENT THE RECORD ON APPEAL**

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On Appeal from the United States District Court for the  
Northern District of Texas, Amarillo Division,  
Civil Action No. 2:23-CV-48  
Hon. Matthew J. Kacsmatyk, Presiding

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## **CERTIFICATE OF INTERESTED PARTIES**

The cause number and style of the case is No. 23-10994, *Spectrum WT v. Wendler* (USDC Civil No.2:23-CV-48, Northern District of Texas).

The undersigned counsel of record certifies that the following listed persons or entities described in the fourth sentence of Rule 28.2.1 have an interest in the outcome of this case. These representations are made in order that the judges of this Court may evaluate possible disqualification or recusal.

### **Plaintiffs-Appellants**

Spectrum WT  
Barrett Bright  
Lauren Stovall

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**Defendants-Appellees**

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**Other Interested Parties**

West Texas A&M University  
Texas A&M University System

Respectfully,

/s/ JT Morris

JT Morris

*Counsel of Record for Plaintiffs-Appellants*

TO THE HONORABLE COURT OF APPEALS:

Plaintiffs-Appellants Spectrum WT, Barrett Bright, and Lauren Stovall move under [Fed. R. App. P. 10](#) for an order requesting the Clerk of the United States District Court for the Northern District of Texas certify and forward to the United States Court of Appeals for the Fifth Circuit a supplemental record containing the documents identified below for inclusion in the Record on Appeal in Case No. 23-10994.

Additionally, Appellants request that the Clerk of the United States District Court for the Northern District of Texas include an updated Docket Sheet showing these filings.

In support, Appellants state as follows:

1. On October 4, 2023, the Clerk of the United States District Court for the Northern District of Texas certified the electronic record on appeal.

2. The day before, the district court denied Appellants' unopposed motion for partial final judgment under [Fed. R. Civ. P. 54\(b\)](#) ([ROA.875–880](#)).

3. Because the certified record was prepared before the district court ruled on Appellants' unopposed motion for partial final judgment

(and submitted after the district court issued that order), the certified record omits by accident the district court's order, the Appellants' motion for reconsideration of the order, and the district court's denial of the same, specifically:

Dkt.	Date	Description
63	10/4/23	"ORDER" denying Plaintiffs' Unopposed Motion for Judgment (Partial Judgment Under Rule 54(b))
65	10/10/23	Plaintiffs' Motion to Reconsider Denial of Plaintiffs' Unopposed Motion for Rule 54(b) Certification for Final Judgment
65-1	10/10/23	Proposed Order on Plaintiff's Motion to Reconsider
66	10/10/23	Plaintiffs' Brief in Support of Motion to Reconsider
68	10/13/23	Order Denying Motion to Reconsider

4. The documents are material to this appeal because the district court's denial of the unopposed motion and denial of the motion to reconsider are at odds with the district court's conclusions that drag shows lack First Amendment protection. *Compare* Order Denying Unopposed Motion for Judgment (Dkt. 63) at 2 *with* Memorandum Opinion and Order (Dkt. 59) at 10–14 ([ROA.858–62](#)).

5. Appellants' counsel has conferred with counsel for Appellees, who have indicated that Appellees do not oppose the relief requested in this motion.

Dated: October 31, 2023

Respectfully,

/s/ JT Morris

JT Morris

Conor T. Fitzpatrick

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### **CERTIFICATE OF SERVICE**

This certifies that on October 31, 2023, in compliance with Rules 25(b) and (c) of the Federal Rules of Appellate Procedure, the undersigned served the foregoing via the Court's ECF filing system on all registered counsel of record.

/s/ JT Morris  
JT Morris

## CERTIFICATE OF COMPLIANCE

1. This motion complies with the type-volume limitations of Fed. R. App. P. 27(d)(2)(A) and the typeface and type style requirements of Fed. R. App. P. 27(d)(1)(E) because it contains 354 words.

2. This motion complies with the typeface requirements of Fed. R. App. P. 32(a)(5) because it has been prepared in proportionally spaced typeface using 14-point Century Schoolbook font with 12-point Century Schoolbook font for footnotes.

Dated: October 31, 2023

/s/ JT Morris  
JT Morris